HONOURABLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HONOURABLE SRI JUSTICE C.Y.SOMAYAJULU

-

WRIT APPEAL No. 1739 OF 2005

Between:

Sri Narayana Rangaiahgari Choultry,

represented by its Manager, M.Srinivasulu,

S/o M.Venkat Reddy, aged 40 years,

Group Temples, Proddatur,

Kadapa District.

… Appellant.

And

Telladala Ramakrishna, S/o Pedda Obulesu,

aged 50 years, Occ: Agriculture and Business,

R/o 7-1279, Korrapadu Road,

Proddatur Mandal and Town, Kadapa District

and another.

… Respondents.

::JUDGMENT::

Counsel for appellant : Sri V.Venugopala Rao

Counsel for Respondent No.1 : Sri A.K.Jayaprakash Rao

Counsel for Respondent No.2 : Sri P.Lakshma Reddy

Government Pleader

for Endowments.

5th December, 2005.

(Per G.S.Singhvi, C.J.)

This Appeal is directed against the interlocutory orders dated 21.7.2005 and 23.8.2005 passed by the learned Single Judges in W.P.M.P.No. 20221 of 2005 in W.P.No. 15921 of 2005.

A perusal of the record shows that in the main writ petition respondent No.1 has challenged the proceedings initiated by respondent No.2 for re-auction of the leasehold rights in respect of property bearing Survey Nos. 113/1, 114, 156/1, 166/11, 158 and 168 situated in Madduru village, Chapadu Mandal, Kadapa District. While issuing notice, the learned Single Judge passed the following interim order:

> " While the auction to be held on 22.7.2005 may go on, the same shall not be finalized for a period of two weeks.
>
> List the WPMP in the motion list on 1-8-2005.
>
> Sri V.Venugopala Rao, learned counsel for R.1, and the learned Government Pleader for R2 takes notices and seek time to file their respecltive counter affidavits."

The aforesaid order was extended till further orders by another learned Single Judge vide his order dated 23.8.2005.

On 3.10.2005, the Division Bench directed District Judge, Kadapa, to appoint a Junior Civil Judge as Commissioner with a direction that he should submit a report regarding actual possession of the disputed land.

In compliance of the aforementioned direction, District Judge, Kadapa, appointed Principal Junior Civil Judge, Kadapa as Commissioner to make an enquiry into the matter and submit report. Accordingly, Principal Junior Civil Judge, Kadapa submitted report dated 26.11.2005, which was forwarded by District Judge, Kadapa to this Court. The report shows that the land is not in the possession of the writ petitioner.

We have heard learned counsel for parties and carefully perused the Commissioner's report.

At this stage, it is not proper for us to express any opinion on the merits and demerits of the findings recorded by the Commissioner on the issue of actual possession of the property in dispute. But at the same time, we are constrained to observe that respondent No.1 has been able to make out an arguable case before the learned Single Judge and the latter did not commit any jurisdictional error by passing interim order restraining the non-petitioners not to finalise the auction to be held on 22.7.2005.

In the premise aforesaid, we do not find any reason to vacate the interim order. Consequently, the appeal is dismissed. However, we give liberty to the appellant to move the learned Single Judge for early hearing and adjudication of the main writ petition.

(G.S.SINGHVI, C.J.)

5.12.2005.

(C.Y.SOMAYAJULU, J.)

VR.